

**CONFIDENTIAL INFORMATION –  
REQUEST FOR CONFIDENTIAL TREATMENT  
PURSUANT TO 47 C.F.R. §§ 0.457 AND 0.459**

October 7, 2009

*VIA HAND DELIVERY*

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street SW  
Washington, DC 20554

Re: CIMCO Communications, Inc., Assignor, and Comcast Phone, LLC, Comcast Phone of Michigan, LLC, and Comcast Business Communications, LLC, Assignees – Application to Assign Certain Interstate and International Customers and Assets Pursuant to Section 214 of the Communications Act – Request for Confidential Treatment

Dear Ms. Dortch:

CIMCO Communications, Inc. (“CIMCO”) and Comcast Phone, LLC, Comcast Phone of Michigan, LLC, and Comcast Business Communications, LLC (“Comcast” or “Assignees”) (CIMCO and Assignees, collectively, the “Applicants”), are filing today an application to assign certain interstate and international customers and assets pursuant to Section 214 of the Communications Act of 1934, as amended (“Communications Act”), and sections 63.04 and 63.24 of the rules of the Federal Communications Commission (“Commission” or “FCC”). The public version of the Application contains certain information that has been redacted due to its confidential and competitively sensitive nature.

Pursuant to Exemption 4 of the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552(b)(4), and the Commission’s rules, Applicants, through their undersigned counsel, hereby request confidential treatment for the information redacted in the public version and provided in the attached unredacted, confidential version of the Application filed concurrently today under seal. The Application contains company-specific, confidential, and/or proprietary commercial information that is redacted in the public version and clearly identified as confidential in the confidential version (“Applicant Information”). The Applicant Information is protected from disclosure by FOIA Exemption 4 and the Commission’s rules protecting information that is “not routinely available for public inspection” and that “would customarily be guarded from competitors.”<sup>1</sup> Below is the information required by 47 C.F.R. § 0.459(b)(1)-(9) for requests for confidential treatment:

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<sup>1</sup> 47 C.F.R. §§ 0.457(d)(1)-(2).

1. *Identification of the specific information for which confidential treatment is sought.* The Applicants request that the Applicant Information be treated as confidential pursuant to Exemption 4 of FOIA and Sections 0.457(d) and 0.459 of the Commission's rules, which protect commercial and other information not routinely available for public inspection. The Applicant Information contains company-specific, competitively-sensitive, business confidential and/or proprietary, commercial data concerning the Applicants' customers, operations, and marketing strategies that would not routinely be made available to the public, and customarily would be guarded from competitors. If such information were disclosed, the Applicants' competitors could use it to determine the Applicants' competitive position and performance, and could use that information to gain a competitive advantage over the Applicants.

2. *Identification of the Commission proceeding in which the information was submitted or a description of the circumstance giving rise to the submission.* This information is provided in conjunction with the Applicants' Application requesting authorization pursuant to section 214 of the Communications Act and sections 63.04 and 63.24 of the Commission's rules to assign certain interstate and international customers and assets of CIMCO to the Assignees.

3. *Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged.* The Applicant Information contains company-specific, competitively-sensitive, confidential and/or proprietary, commercial and operational information. It provides sensitive information regarding the Applicants' marketing strategies, business operations and customers. This information would not customarily be made available to the public and customarily would be guarded from all others, especially competitors. If this information were not protected, the Applicants' competitors could use it in an effort to determine how best to undercut the Applicants' business.

4. *Explanation of the degree to which the information concerns a service that is subject to competition.* The confidential information at issue relates directly to the provision of voice, data, and Internet access services, which are subject to vigorous competition. If the information is not protected, the Applicants' competitors will be able to use it to their competitive advantage.

5. *Explanation of how disclosure of the information could result in substantial competitive harm.* Since this type of information generally would not be subject to public inspection and would customarily be guarded from competitors, the Commission's rules recognize that release of the information is likely to produce competitive harm. Disclosure could cause substantial competitive harm because the Applicants' competitors could assess aspects of the Applicants' customers and operations and use that information to undermine the Applicants' competitive position.

6.-7. *Identification of any measures taken by the submitting party to prevent unauthorized disclosure, and identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties.* The Applicant Information is not available to the public, and has not otherwise been disclosed previously to third parties. The Applicants routinely treat this information as highly confidential and/or proprietary. The Applicants assiduously guard against disclosure of this information to others.

8. *Justification of the period during which the submitting party asserts that the material should not be available for public disclosure.* The Applicants request that the Applicant Information be treated as confidential indefinitely, as it is not possible to determine at this time any date certain by which the information could be disclosed without risk of harm.

9. *Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.* The Applicant Information would, if publicly disclosed, enable the Applicants' competitors to gain an unfair competitive advantage. Under applicable Commission and federal court precedent, the information provided by the Applicants on a confidential basis should be shielded from public disclosure. Exemption 4 of FOIA shields information that is (1) commercial or financial in nature; (2) obtained from a person outside government; and (3) privileged or confidential. The information in question clearly satisfies this test.

Additionally, where disclosure is likely to impair the government's ability to obtain necessary information in the future, it is appropriate to grant confidential treatment to that information. *See National Parks and Conservation Ass'n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974); *see also Critical Mass Energy Project v. NRC*, 975 F.2d 871, 878 (D.C. Cir. 1992) (*en banc*) (recognizing the importance of protecting information that "for whatever reason, 'would customarily not be released to the public by the person from whom it was obtained.'") (citation omitted). Failure to accord confidential treatment to this information is likely to dissuade providers from voluntarily submitting such information in the future, thus depriving the FCC of information necessary to evaluate facts and market conditions relevant to policy issues under its jurisdiction.

The Applicants are aware that the Commission typically adopts a protective order to ensure that any proprietary or confidential information submitted in conjunction with applications for assignment or transfer of control is afforded adequate protection. The Commission's customary protective order permits counsel for parties to the proceeding to access this confidential information, but only after complying with the safeguards and procedures established by that order. Applicants anticipate that the Commission will issue such a protective order in response to their above-referenced application. The Applicant Information requires the level of protection that the Commission typically provides for "confidential" material in its first protective order in transactional proceedings. The Applicants have not submitted any

information that would require the heightened protection that the Commission normally provides for "highly confidential" material in its second protective order in such proceedings.

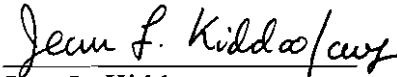
Until a protective order is released, Applicants request that the Commission treat the Applicant Information as confidential pursuant to this request for confidential treatment submitted pursuant to 47 C.F.R. §§ 0.457 and 0.459. If a request for disclosure occurs before the issuance of a protective order, or if a request for disclosure is made under FOIA at any time, please provide sufficient notice to the undersigned prior to any such disclosure to allow the Applicants to pursue appropriate remedies to preserve the confidentiality of the Applicant Information, as provided by 47 C.F.R. § 0.459(g).

If you have any questions or require further information regarding this request, please do not hesitate to contact us.

Sincerely,



Charles W. Logan  
LAWLER, METZGER, KEENEY & LOGAN, LLC  
2001 K Street NW, Suite 802  
Washington, DC 20006  
202-777-7700  
*Counsel for Comcast*



Jean L. Kiddoo  
BINGHAM MCCUTCHEN LLP  
2020 K Street NW, Suite 1100  
Washington, DC 20006  
202-373-6000  
*Counsel for CIMCO*

Attachment